

1 MACDONALD & ASSOCIATES.  
2 IAIN A. MACDONALD (SBN 051073)  
3 Two Embarcadero Center, Suite 1670  
San Francisco, CA 94111-3930  
Telephone: (415) 362-0449  
Facsimile: (415) 394-5544

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5 Attorneys for Defendant,  
Thomas Clendening

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8 UNITED STATES BANKRUPTCY COURT  
9 NORTHERN DISTRICT OF CALIFORNIA  
10 SAN FRANCISCO DIVISION

11 In re

Case No. 06-31144-TC

12 THE ELITE CAFÉ, INC.,

Chapter 7

13 Debtor.

14 E. LYNN SCHOENMANN, Trustee,

Adv. Proc. No. 07-03040-TC

15 Plaintiff,

16 vs. ANSWER TO COMPLAINT

17 THOMAS CLENDENING,

18 Defendant.

20 COMES NOW, Thomas Clendening, defendant herein, and answers plaintiff's Complaint as  
21 follows:

22 ANSWER TO GENERAL ALLEGATIONS

23 1. Answering the general allegations, defendant denies, generally and specifically, each  
24 and every allegation of Paragraphs 13 thereof; further answering said Paragraph 13, defendant  
25 alleges that a substantial portion of the cash proceeds allegedly received by him were in fact received  
26 by creditors of the debtor.

27 ANSWER TO FIRST CLAIM FOR RELIEF

28 2. Defendant denies, generally and specifically, each and every allegation of Paragraphs

14 through 18 of the Complaint; further answering the allegations of the First Claim for Relief, defendant alleges that the Transfer was made on account of an antecedent debt, to wit, claims held by him against The Elite Café, Inc. for salary, vacation pay, advances, and the like.

ANSWER TO SECOND CLAIM FOR RELIEF

3. Defendant denies, generally and specifically, each and every allegation of Paragraphs 19 through 22 of the Complaint; further answering the allegations of the Second Claim for Relief, defendant alleges that the Transfer was made on account of an antecedent debt, to wit, claims held by him against The Elite Café, Inc. for salary, vacation pay, advances, and the like.

## ANSWER TO THIRD CLAIM FOR RELIEF

4. Defendant denies, generally and specifically, each and every allegation of Paragraphs 23 through 26 of the Complaint; further answering the allegations of the Third Claim for Relief, defendant alleges that the Transfer was made on account of an antecedent debt, to wit, claims held by him against The Elite Café, Inc. for salary, vacation pay, advances, and the like.

## **ANSWER TO FOURTH CLAIM FOR RELIEF**

5. Defendant denies, generally and specifically, each and every allegation of Paragraphs 27 through 29 of the Complaint; further answering the allegations of the Fourth Claim for Relief, defendant alleges that the Transfer was made on account of an antecedent debt, to wit, claims held by him against The Elite Café, Inc. for salary, vacation pay, advances, and the like.

## ANSWER TO FIFTH CLAIM FOR RELIEF

6. Defendant denies, generally and specifically, each and every allegation of Paragraphs 30 through 34 of the Complaint; further answering the allegations of the Fifth Claim for Relief, defendant alleges that the Transfer was made on account of an antecedent debt, to wit, claims held by him against The Elite Café, Inc. for salary, vacation pay, advances, and the like.

## ANSWER TO SIXTH CLAIM FOR RELIEF

7. Defendant denies, generally and specifically, each and every allegation of Paragraphs 35 through 37 of the Complaint.

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## FIRST AFFIRMATIVE DEFENSE

8. Defendant received the "Transfer" in good faith and gave substantial value therefor, both by virtue of the antecedent debt which was discharged by the Transfer, and by the payment of substantial obligations of the debtor; pursuant to Bankruptcy Code Section 548(c), defendant is entitled to retain the Transfer to the extent thereof.

**WHEREFORE**, defendant prays:::

1. That plaintiff take nothing by way of her Complaint;
  2. For costs of suit herein; and
  3. For such other and further relief as is proper in the premises.

Date: April 26, 2007

## MACDONALD & ASSOCIATES

By: /s/ Iain A. Macdonald  
IAIN A. MACDONALD  
Attorneys for Defendant,  
Thomas Clendening